

# EXHIBIT

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UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF TENNESSEE

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ULTIMA SERVICES CORPORATION :  
v. : Case No.  
U.S. DEPARTMENT OF : 2:2020cv00041  
AGRICULTURE, et al., :  
: \_\_\_\_\_

Monday, April 25, 2022

30(b)(6) Zoom Videoconference  
deposition of JOHN KLEIN, taken with the witness  
participating from his residence, beginning at  
9:38 a.m., Eastern Standard Time, before Ryan K.  
Black, a Registered Professional Reporter,  
Certified Livenote Reporter and Notary Public.

<p>1 way, right?</p> <p>2 A. Part of the business or there have been</p> <p>3 transactions back and forth between spouses; or</p> <p>4 if there's community property states and we want</p> <p>5 to make sure things are evenly divided, all those</p> <p>6 things come up and we look at those issues.</p> <p>7 Q. Does a spouse have to fill out the form</p> <p>8 regardless of whether those specific issues are</p> <p>9 relevant in a particular application?</p> <p>10 A. I don't think so any longer, but -- I</p> <p>11 could be mistaken, but I don't think so.</p> <p>12 Q. There was, at one time, a requirement</p> <p>13 that they do, right?</p> <p>14 A. I think at one point in time they did it</p> <p>15 across the board, and I think they've come back</p> <p>16 from that to a certain degree. But I don't want</p> <p>17 to say what the answer is across the board,</p> <p>18 because, again, that's not something that I look</p> <p>19 at carefully.</p> <p>20 Q. Okay. If an owner identifies as a</p> <p>21 member of one of the groups for which there is a</p> <p>22 presumption of social disadvantage, does that</p> <p>23 owner have to certify that he or she has been a</p> <p>24 victim of chronic and substantial discrimination?</p> <p>25 A. They do not have to do that in addition</p>	<p>Page 70</p> <p>1 group, you can so certify, right?</p> <p>2 A. That is correct. And, again, as we were</p> <p>3 talking about before, these certifications are,</p> <p>4 in fact, under penalty of perjury, so we are</p> <p>5 assuming that they are correct.</p> <p>6 Q. Right. But I'm just trying to make</p> <p>7 sure I understand what they're asking to certify.</p> <p>8 They're not being asked to certify that they have</p> <p>9 held themselves out as a member of a presumptive</p> <p>10 group for the last 10 years. They're asked --</p> <p>11 A. No. That's correct. There's no time</p> <p>12 limit on that question. That's correct.</p> <p>13 Q. Okay. So if, in fact, they do identify</p> <p>14 as a member of a presumptive group because they</p> <p>15 had just received something that identifies</p> <p>16 themselves as a member of that group, that</p> <p>17 person can so certify, right?</p> <p>18 A. They can certify, yes. But in the</p> <p>19 example that we were talking about regarding the</p> <p>20 Native American, they are required to show their</p> <p>21 tribal card. And if their tribal card says, you</p> <p>22 know, April 1st, 2022, that could be problematic.</p> <p>23 Q. Okay. But there, presumably, is not a</p> <p>24 analog to a tribal card for, I don't know, Native</p> <p>25 Hawaiians, right?</p>
<p>Page 71</p> <p>1 to identifying. They must identify that they</p> <p>2 actually hold themselves out as that individual.</p> <p>3 Like, for instance, if you are a Native American</p> <p>4 and you grew up your entire life not identifying</p> <p>5 as a Native American, and a week before you</p> <p>6 applied to the program you finally got a card</p> <p>7 realizing that your great, great grandfather was</p> <p>8 a Native American, that may not suffice since</p> <p>9 you've never held yourself as a Native American</p> <p>10 and, therefore, no one, in fact, treated you as</p> <p>11 such or discriminated against you because of that</p> <p>12 identity.</p> <p>13 Q. So is there something on the application</p> <p>14 that requires an individual to say that they have</p> <p>15 identified as a member of a presumptive group for</p> <p>16 a certain period of time?</p> <p>17 A. I believe so, yes.</p> <p>18 Q. Okay. And is there a period of time</p> <p>19 minimum?</p> <p>20 A. No, not a period of time. But you have</p> <p>21 to affirmatively say that you've held yourself</p> <p>22 out as.</p> <p>23 Q. Okay. But as long as you can certify</p> <p>24 that you do, at the time that you fill out the</p> <p>25 form, identify as a member of a presumptive</p>	<p>Page 73</p> <p>1 A. Yeah. I don't know of any such thing.</p> <p>2 Q. Or Hispanic, right? There's no analog</p> <p>3 to a tribal card for Hispanic, right?</p> <p>4 A. I think that's true.</p> <p>5 Q. Okay. Does the SBA make any</p> <p>6 investigation outside the information that's</p> <p>7 provided in the application to determine whether</p> <p>8 or not to approve it?</p> <p>9 A. I don't think that makes sense. The</p> <p>10 application speaks for itself. If there's things</p> <p>11 missing from the application, the SBA would ask</p> <p>12 for clarity. Again, the burden is on the</p> <p>13 applicant to demonstrate that he or she is, in</p> <p>14 fact, eligible for the program. If that burden</p> <p>15 has not been met, we would either decline</p> <p>16 the application or we would ask for further</p> <p>17 information to make it clear that they are, in</p> <p>18 fact, eligible or not. We wouldn't just make</p> <p>19 things up on our own.</p> <p>20 Q. Okay. So I think that answers my</p> <p>21 question, but I want to make sure I understand</p> <p>22 it. The SBA wouldn't go looking for information</p> <p>23 that might contradict something that is in the</p> <p>24 application?</p> <p>25 A. No, we do do that. We definitely do</p>

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E R R A T A

2 PAGE LINE CHANGE

3 P. 11; Line 24; insert the word "the" between the words "to" and "8(a)" -----

4 Reason for

5 Change: Typo

6 PAGE LINE CHANGE

7 P. 13; Line 12 and Line 13; change the word "cell" to "sub" -----

8 Reason for

9 Change: Typo

10 PAGE LINE CHANGE

11 P. 17; Lines 2-3: insert the word "and" between the words "Management" and "Technical" -----

12 Reason for

13 Change: Typo

14 PAGE LINE CHANGE

15 P. 21; Lines 17-18; change "of participants in a program, dollars," to "participants in the 8(a) program, contract dollars," -----

16 Reason for

17 Change: Typo; clarity

18 PAGE LINE CHANGE

19 P. 40; Lines 8-9; First sentence should read: "I'm sure there are several agencies whose goals for SDBs are greater than 5 percent." -----

20 Reason for

21 Change: Typos

22 PAGE LINE CHANGE

23 P. 54; Line 14; Change "certified.gov" to "certify.gov" -----

24 Reason for

25 Change: Typo

Veritext Legal Solutions

1 PAGE LINE CHANGE

2 P. 59; Lines 9-10; change "but on the science part, many times it's" to "but if something is incorrect, many times it's" -----

3 Reason for

4 Change: Transcription error

5 PAGE LINE CHANGE

6 P. 59; Lines 17-20; sentence should read as follows: "And they do it based upon a certain size standard. Each NAICS code is assigned a corresponding size standard. So I can register as a small business for NAICS Code 123456, and as an other than small business for NAICS Code 123457, depending upon the corresponding size standard corresponding to the NAICS Code." -----

7 Reason for

8 Change: Typos and Clarification

9 PAGE LINE CHANGE

10 P. 60; Line 10; change the word "primary" to "apparent" -----

11 Reason for

12 Change: Typo

13 PAGE LINE CHANGE

14 P. 74; Lines 3-4; should read "or they look for things as to whether there are any outstanding debts or things of that sort." -----

15 Reason for

16 Change: Transcription error

17 PAGE LINE CHANGE

18 P. 83; Line 7; should read "Alaska", not "Alaskan" -----

19 Reason for

20 Change: Typo

21 PAGE LINE CHANGE

22 P. 83; Line 9; delete "or it's -" and add the word "be" between the words "deemed to" and "owned and" -----

23 Reason for

24 Change: Typo

1 PAGE LINE CHANGE

2 P. 87; Line 4; change "the ANC owns X and Joe Smith owns 400 percent of one company" to "the ANC owns 51% of X and Joe Smith owns 49 percent of that company" -----

3 Reason for

4 Change: Typo -----

5 PAGE LINE CHANGE

6 P. 107; Line 22; change "company Y" to "country Y" -----

7 Reason for

8 Change: Typo -----

9 PAGE LINE CHANGE

10 P. 127; Line 13: change the word "graduate" to "graduation" -----

11 Reason for

12 Change: Typo -----

13 PAGE LINE CHANGE

14 P. 138; Line 24; Change "SDBO" to "SDVO"; change "SWB" to "WOSB" -----

15 Reason for

16 Change: Typos -----

17 PAGE LINE CHANGE

18 P. 140; Line 12; change "JCBD" to "GCBD" -----

19 Reason for

20 Change: Typo -----

21 PAGE LINE CHANGE

22 P. 140; Line 23; Change "4" to "4.5 million" -----

23 Reason for

24 Change: Typo/clarification -----

1 PAGE LINE CHANGE

2 P. 153; Line 18; change "an it" to "it an" -----

3 Reason for

4 Change: Typo

5 PAGE LINE CHANGE

6 P. 194; Lines 18-19; "7(j) is management technical assistance" should be changed to read "7(j) is a management and technical assistance program" -----

7 Reason for

8 Change: Typo

9 PAGE LINE CHANGE

10 P. 195; Line 15; Change "with grants" to "or grants" -----

11 Reason for

12 Change: Typo

13 PAGE LINE CHANGE

14 P. 195; Lines 22-23; Change "these contractor grantees" to "these contractors or grantees" -----

15 Reason for

16 Change: Typo

17 PAGE LINE CHANGE

18 P. 199; Line 18; Change "as SBA's" to "of SBA's" -----

19 Reason for

20 Change: Typo

21 PAGE LINE CHANGE

22 -----

23 Reason for

24 Change: \_\_\_\_\_

1 ACKNOWLEDGMENT OF DEPONENT

2 I, John W. Klein, do

3 hereby certify that I have read the foregoing  
4 pages 1 to 212 and that the same is a  
5 correct transcription of the answers given by  
6 me to the questions therein propounded,  
7 except for the corrections or changes in form  
8 or substance, if any, noted in the attached  
9 Errata Sheet.

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6-10-22

**SIGNATURE**

Subscribed and sworn to before

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me this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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My commission expires:

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